THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION Nos. 406, 407, 408,409, 410, 411 and

–

412 of 2006

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dated: 06.01.2006

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Writ petition No. 406 of 2006:

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Between:

Ch.Suryanarayana Raju S/O Venkata Narasimha Raju,

Head of mechanical Engineering Section, Col.D.S,Raju,

Polytechnic, Poduru, R/O Poduru, West Godavari District.

… **PETITIONER**

And:

–

The Government of Andhra Pradesh, rep., by its Principal

Secretary, Technical Education Department, Secretariat,

Hyderabad and others.

… **RESPONDENTS**

Writ petition No. 407 of 2006:

Between:

R.V.Subba Raju S/O Rama Raju, Office Superintendent,

Col.D.S.Raju Polytechnic, Poduru, R/o Poduru,

West Godavari District.

… **PETITIONER**

And:

The Government of Andhra Pradesh, rep., by its Principal Secretary, Technical Education Department, Secretariat, Hyderabad and others.

… **RESPONDENTS**

Writ petition No. 408 of 2006:

Between:

R.Ramesh Babu S/O Narasimha Raju,
Junior Assistant, Col.D.S.Raju Polutechnic,
Poduru, R/O Poduru, West Godavari District.

… **PETITIONER**

And:

The Government of Andhra Pradesh, rep., by its Principal Secretary, Technical Education Department, Secretariat, Hyderabad and others.

… **RESPONDENTS**

Writ petition No. 409 of 2006:

Between:

A.Dharma Rao S/O A.China Satyanarayana Murthy,
Librarian, Col.D.S.Raju Polutechnic, Poduru,

R/O Poduru, West Godavari District.

... PETITIONER

And:

The Government of Andhra Pradesh, rep., by its Principal Secretary, Technical Education Department, Secretariat, Hyderabad and others.

... **RESPONDENTS**

Writ Petition No. 410 of 2006

Between:

S.Satyanarayana S/O S.Narasimhulu, Col.D.S.Raju Polytechnic, Poduru R/O Poduru, West Godavari District.

... PETITIONER

And:

The Government of Andhra Pradesh, rep., by its Principal Secretary, Technical Education Department, Secretariat, Hyderabad and others.

... **RESPONDENTS**

Writ petition No. 411 of 2006:

Between:

M.Rama Krishnam Raju S/O Naga Raju, Col.D.S.Raju

Polytechnic, Poduru R/O Poduru,West Godavari District.

...PETITIONER

And:

The Government of Andhra Pradesh, rep., by its Principal Secretary, Technical Education Department, Secretariat, Hyderabad and others.

... **RESPONDENTS**

Writ petition NO. 412 of 2006

Between:

R.Venkata Raju S/O Rajam Raju, Head of Civil Engineering Department, Col.D.S.Raju Polutechnic, Poduru R/O Poduru, West Godavari District.

... **PETITIONER**

And:

The Government of Andhra Pradesh, rep., by its Principal Secretary, Technical Education Department, Secretariat, Hyderabad and others.

... **RESPONDENTS**

COMMON ORDER:

In this batch of writ petitions, the petitioners are the employees of the third respondent-polytechnic, which is an unaided Private Educational Institution. Through separate orders dated 27.10.2005, the third respondent placed the petitioners herein, under suspension alleging certain acts of misconduct. Through proceedings dated 05.12.2005, the third respondent appointed the fourth respondent as an enquiry officer to inquire into the charges against the petitioners. The said proceedings are challenged on the ground that the appointment of the fourth respondent as an enquiry officer is contrary to Rule 7(2) of the Andhra Pradesh Private Institutions, employees (disciplinary Control) Rules, 1983 (for short "the Rules") (framed under the Andhra Pradesh Education Act). The petitioners place reliance upon a judgment of this Court in ***Vivek Vardhini Education Society, Vs. State of Andhra Pradesh*** .

Heard Sri M.Pandu Ranga Rao, learned counsel for the petitioners, learned Government Pleader for Technical Education and
Sri K.Chidambaram, learned counsel for respondents 3 and 4.

The manner in which the disciplinary proceedings are to be conducted against the employees in the Private Educational Institutions, is governed by Chapter-XIV of the Andhra Pradesh Education Act, and the Rules, referred to above. It is not necessary to deal with the circumstances that gave raise to the initiation of disciplinary proceedings against the petitioners herein. Suffice it to say, that the fourth respondent was appointed as an enquiry officer through the impugned proceedings. Rule 7(2) of the Rules mandates that the inquiring authority in the disciplinary proceedings against the employees of Private Educational Institutions shall be superior in rank, to the charged employee. This proviso came to be interpreted by a Division Bench of this Court in ***Vivek Vardhini Education Society's case*** (supra). As in the present case, in that case also the management of private educational institution appointed an Advocate, to act as an Enquiry Officer. This Court held that an Advocate cannot be treated as an officer, superior in rank, to the delinquent-employee. In that view of the matter, the appointment of the fourth respondent as enquiry officer cannot be sustained in law. The impugned order is accordingly set

aside.

Learned counsel for the third respondent submits that having regard to the posts held by some of the petitioners, it is difficult to find any officer, within the institution, for appointment, as an enquiry officer, and in that view of the matter, they intend to appoint one of the members of the Managing Committee, as an enquiry officer. He states that such a course of action was upheld by this Court in certain judgments.

In this writ petition, the only question is as to the validity of the impugned order. Once it is set aside, it is for the third respondent to appoint an enquiry officer. This Court cannot indicate as to whether a member of the Managing Committee of the Institution can be appointed as an enquiry officer. If such an appointment has been upheld or treated as legal by this Court, the third respondent can certainly avail the benefit of the same.

Accordingly, the writ petitions are allowed and the impugned orders are set aside. It is left open to the third respondent to appoint an enquiry officer, in accordance with the Rules, referred to above. There shall be no order as to costs.

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06.01.2006

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